THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3362 OF 2006

DATED 24th FEBRUARY, 2006

BETWEEN

D.Venkanna

… Petitioner

and

The Divisional Panchayat Officer, Khammam and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The petitioner is resident of Mangalabanda Thanda, Hamlet of Kakaravai of Tirumalaipalem Mandal in Khammam District. He is aggrieved by the proceedings of the first respondent, dated 09.01.2006, whereby and whereunder, while fixing the upset price for leasing out the fishing rights in respect of Perikacheruvu and Gudicheruvu of Kakaravai village, the first respondent directed Sarpanch/Panchayat Secretary to intimate the upset price to the fourth respondent for their willingness to accept the lease. It is the case of the petitioner that there are more than sixty residents in the Thanda entirely depending on fishing in the Gudicheruvu tank and if the same is leased out to the fourth respondent, they would be deprived of their livelihood.

Opposing the writ petition, the learned Assistant Government Pleader for Panchayat Raj relies on Rule 3 of the Rules made under G.O.Ms.No.343, dated 10.04.1978, and submits that the impugned order passed by the first respondent is in accordance with Rules. Rule 3 reads as under.

> Rule 3. (a) (i) The gram panchayat shall lease out, except sources set, apart for washing of clothes by the local washermen, the rightest fishing in Minor irrigation tanks and other tanks vested in it under clause (b) of sub-section

(1) of the Section 55 and under sub-section (2) of Section 85, of the Andhra Pradesh Gram Panchayat Act, 1964 (hereinafter called the Act) without public auction to the Fishermen Co-operative Society of the local area.

(ii) The gram panchayat shall lease out the rights of fishing in the tanks set apart for washing of clothes under clause (a) of sub-section (1) of Section 86 of the Act to the local Rajaka Seva Sangham without public auction.

(iii) The gram panchayat shall out rights of fishing in the tanks lying the scheduled area, only to the fishermen Co-operative Societies consisting of scheduled Tribes as members or in the absence of the above to the members of the scheduled tribes only through open auction.

(b) The executive authority of the Gram Panchayat immediately on receipt of the intimation referred to under clause (b) of Rule 2 from the Divisional Panchayat Officer, shall send an intimation by registered post acknowledgement due to the Fishermen Co-operative society concerned, or Rajaka Seva Sangham, as the case may be, requesting them to give their acceptance before fifteen days from the date of receipt of the intimation whether the said co-operative society at the Rajaka Seva Sangham could take out the lease at the fixed rate fixed by the Divisional Panchayat Officer.

(c) The Executive Authority on receipt of the acceptance of the fishermen Co-operative society or Rajaka Seva Santham shall lease out the fishing rights to the said Co-operative Society or the Rajaka Seva Sangham, is the case may be, immediately and place the matter before the gram panchayat at its next meeting and ratification.

(d) The gram panchayat shall lease out the weeds and reeds in the Minor irrigation tanks or other tanks vested in it under section 65 and 85 of the Act to the local girijan societies only and it should adhere to Rule 2 in fixing the upset price and also to follow the procedure laid down in Clauses (b) and (c) of Rule 2 and Rule 5 of these rules in leasing the rights. The lessee should be permitted to enjoy the lease before exploitation of the fish by the fishermen co-operative society of the Rajaka Seva Sangham.

A plain reading of the above Rule would show that the first respondent is acted strictly in accordance with the Rules and there is no illegality in the impugned order. If so advised, the petitioner and the other similarly placed persons, to make a representation to the District Collector for allotment of other fishing tanks.

The writ petition, with the above observations, is disposed of. No costs.

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(V.V.S.RAO,J)

24.02.2006

pln